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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/474,056  | 12/28/1999  | HAKAN DJUPHAMMAR     |                     | 1813             |
| 7590  | 11/10/2003  |                      | EXAMINER            |                  |
| DAVID E. BENNETT<br>COAT & BENNETT, P.L.L.C.<br>1400 CRESECENT GREEN, SUITE 300<br>CARY, NC 27511 |             |                      | NGUYEN, TOAN D      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2665                | 12               |
| DATE MAILED: 11/10/2003   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                           |                   |
|------------------------------|---------------------------|-------------------|
| <b>Office Action Summary</b> | Application No.           | Applicant(s)      |
|                              | 09/474,056                | DJUPHAMMAR ET AL. |
|                              | Examiner<br>Toan D Nguyen | Art Unit<br>2665  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 11 September 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-10 and 12-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 and 12-23 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-10 and 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lupien et al. (U. S. Patent 6,389,008 B1) in view of Peltola Jukka (WO 99/11032).

For claim 1, Lupien et al. disclose integrated radio telecommunications network and method of interworking an ASNI-41 network and the general packet radio service (GPRS), comprising:

(a) synchronizing, during an idle state, a mobile station to a default carrier selected from a group comprising an all-services carrier and a best-efforts carrier, the all-services carrier supporting real-time and non-real-time services, the best-efforts carrier supporting only non-real-time services (col. 15 lines 31-36);

- (b) synchronizing the mobile station to the remaining carrier (col. 15 lines 31-36), then;
- (c) connecting a call to the mobile station over the remaining carrier (col. 15 lines 31-39); and
- (d) synchronizing the mobile station to the default carrier upon completion of the call (col. 16 lines 39-43).

However, Lupien et al. do not explicitly disclose synchronizing the mobile station to the default carrier. In an analogous art, Peltola Jukka discloses synchronizing the mobile station to the default carrier (page 3 lines 2-3 and page 10 lines 16-18). One skilled in the art would have recognized synchronizing the mobile station to the default carrier to use the teachings of Peltola Jukka in the system of Lupien et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the synchronizing the mobile station to the default carrier as taught by Peltola Jukka in Lupien et al.'s system with the motivation being to provide faster operation (page 10 lines 16-22).

For claim 2, Lupien et al. disclose wherein the default carrier is a 1xRTT carrier, the remaining carrier is a HDR carrier, and the call is a data call (figure 1, col. 4 lines 13-16).

For claim 3, Lupien et al. disclose wherein the default carrier is a HDR carrier, the remaining carrier is a 1xRTT carrier, and the call is a voice call (figure 1, col. 4 lines 13-16).

For claim 4, Lupien et al. disclose further comprising notifying the mobile station to synchronize with the remaining carrier in anticipation of step (c) (col. 15 lines 33-36).

For claim 5, Lupien et al. disclose wherein prior to notifying the mobile station to synchronize with the remaining carrier, the mobile station has an active voice call in progress over the 1xRTT carrier, the active voice call being placed on hold during steps (b), (c) and (d) (col. 16 lines 23-30).

For claim 6, Lupien et al. disclose further comprising notifying the mobile station to synchronize with the remaining carrier in anticipation of step (c) (col. 15 lines 33-36).

For claim 7, Lupien et al. disclose:

notifying the mobile station to synchronize with the HDR carrier because of an incoming data call (col. 15 lines 33-36);  
placing the an active voice call over the 1xRTT carrier on hold (col. 16 lines 23-34);  
accepting the data call over the CDR carrier (col. 16 lines 23-34); and  
reconnecting the active voice call (col. 16 lines 39-43).

For claim 8, Lupien et al. disclose integrated radio telecommunications network and method of interworking an ASNI-41 network and the general packet radio service (GPRS), comprising: a wireless communication network configured to allow a call to be selectively carried over either an all-services carrier or a best-efforts carrier (figure 1), the all-services carrier supporting real-time and non-real-time services, the best-efforts carrier supporting only non-real-time services, said wireless communication network further being configured to:

connect a data call to a mobile station over the best-efforts carrier (col. 15 lines 33-36);  
if a specified condition is detected while the data call is in progress, synchronize the mobile station to the all-services carrier (col. 16 lines 23-27 and col. 12 lines 62-64); and  
continue the data call over the all-services carrier (col. 12 line 64 to col. 13 line 6 and col. 16 lines 35-43).

However, Lupien et al. do not explicitly disclose synchronize the mobile station to the all-service carrier. In an analogous art, Peltola Jukka discloses synchronizing the mobile station to the all-service carrier (page 3 lines 2-3 and page 10 lines 16-18). Peltola Jukka discloses

further wherein the specified condition is detected by examining transmitted packet data (page 7 lines 1-10 as set forth in claim 12); wherein the specified condition is detected by an Application Programming Interface within the mobile station (page 10 lines 23-28 as set forth in claim 13).

One skilled in the art would have recognized synchronizing the mobile station to the default carrier to use the teachings of Peltola Jukka in the system of Lupien et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the synchronizing the mobile station to the default carrier as taught by Peltola Jukka in Lupien et al.'s system with the motivation being to provide faster operation (page 10 lines 16-22).

For claim 9, Lupien et al. disclose wherein the all-services carrier is a 1xFtTT carrier, and the best-efforts carrier is a HDR carrier (figure 1, col. 4 lines 13-16).

For claim 10, Lupien et al. disclose wherein the best-efforts carrier is a packet data carrier (figure 1, col. 4 lines 13-16).

For claim 14, Lupien et al. disclose integrated radio telecommunications network and method of interworking an ASNI-41 network and the general packet radio service (GPRS), comprising:

synchronize, during an idle state, a mobile station to a default carrier comprising either the all-services carrier or the best-efforts carrier (col. 15 lines 31-36);

synchronize the mobile station to the remaining carrier upon receipt of an incoming call (col. 15 lines 31-36);

connect the incoming call to the mobile station over the remaining carrier (col. 15 lines 31-39); and

synchronize the mobile station to the default carrier upon completion of the call (col. 16 lines 39-43).

However, Lupien et al. do not explicitly disclose synchronizing the mobile station to the default carrier. In an analogous art, Peltola Jukka discloses synchronizing the mobile station to the default carrier (page 3 lines 2-3 and page 10 lines 16-18). One skilled in the art would have recognized synchronizing the mobile station to the default carrier to use the teachings of Peltola Jukka in the system of Lupien et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the synchronizing the mobile station to the default carrier as taught by Peltola Jukka in Lupien et al.'s system with the motivation being to provide faster operation (page 10 lines 16-22).

For claim 15, Lupien et al. disclose wherein the default carrier is a 1xRTT carrier, the remaining carrier is a HDR carrier, and the call is a data call (figure 1, col. 4 lines 13-16).

For claim 16, Lupien et al. disclose wherein the default carrier is a HDR carrier, the remaining carrier is a 1xRTT carrier, and the call is a voice call (figure 1, col. 4 lines 13-16).

For claim 17, Lupien et al. disclose the network further configured to notify the mobile station to synchronize with the remaining carrier upon notice of the incoming data call at a mobile station controller (col. 15 lines 33-36).

For claim 18, Lupien et al. disclose wherein prior to notifying the mobile station to synchronize with the HDR carrier, the mobile station has an active voice call in progress over the 1xRTT carrier, the network configured to place the active voice call on hold while the mobile station is synchronized to the HDR carrier (col. 16 lines 23-30).

For claim 19, Lupien et al. disclose wherein the network is further configured to:

notify the mobile station to synchronize with the 1xRTT carrier because of an incoming voice call (col. 16 lines 23-34);

transfer the data voice call to the 1xRTT carrier; and accept the voice call over the 1xRTT carrier (col. 16 lines 23-34).

For claim 20, Lupien et al. disclose wherein the network is further configured to:

notify the mobile station to synchronize with the HDR carrier because of an incoming data call (col. 15 lines 33-36);

place an active voice call over 1xRTT carrier on hold (col. 16 lines 23-34);

accept the data call over the HDR carrier (col. 16 lines 23-34); and

reconnecting the active voice call (col. 16 lines 39-43).

For claim 21, Lupien et al. disclose integrated radio telecommunications network and method of interworking an ASNI-41 network and the general packet radio service (GPRS), comprising:

providing a hybrid network, the hybrid network enabling a call to be selectively carried over either a 1xRTT carrier or an HDR carrier (figure 1, col. 4 lines 13-16);

connecting a data call over the HDR carrier (col. 15 lines 33-36);

determining that the data call should be carried over the 1xRTT carrier (col. 16 lines 23-27);

synchronizing the mobile station to the 1xRTT carrier (col. 16 lines 27-34); and

continuing the data call over the 1xRTT carrier (col. 16 lines 27-34).

However, Lupien et al. do not explicitly disclose synchronizing the mobile station to the default carrier. In an analogous art, Peltola Jukka discloses synchronizing the mobile station to

the default carrier (page 3 lines 2-3 and page 10 lines 16-18). Peltola Jukka discloses further wherein the determining step comprises examining transmitted packet data (page 7 lines 1-10 as set forth in claim 22); wherein the determining step comprises is performed by an Application Programming Interface within the mobile station (page 10 lines 23-28 as set forth in claim 23).

One skilled in the art would have recognized synchronizing the mobile station to the default carrier to use the teachings of Peltola Jukka in the system of Lupien et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the synchronizing the mobile station to the default carrier as taught by Peltola Jukka in Lupien et al.'s system with the motivation being to provide faster operation (page 10 lines 16-22).

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-10 and 12-23 have been considered but are moot in view of the new ground(s) of rejection.

***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

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